

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Th17a

Appeal Filed: 10/7/2009
49th Day: 11/25/2009
180th Day: N/A
Staff: Charles Posner-LB
Staff Report: 10/21/2009
Hearing Date: November 5, 2009
Commission Action:

**STAFF REPORT: APPEAL/SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: City of Los Angeles

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-VEN-09-194

APPLICANT: Kathy Magee **AGENT:** Constantine Tziantzis

APPELLANTS: 1) Keith Stephenson, 2) Constantine Tziantzis

PROJECT LOCATION: 2812-2818 Grand Canal, Venice, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Appeal of City of Los Angeles Local Coastal Development Permit No. ZA-2007-0743 approved with conditions to divide one 5,314 square foot canal-fronting lot into two lots. The project site is developed with two detached duplexes and two two-car garages.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles certified Land Use Plan for Venice, 6/14/2001.
2. City of Los Angeles Local Coastal Development Permit No. ZA-2007-0743.
3. City of Los Angeles Parcel Map No. AA-2007-0624-PLMA.
4. City of Los Angeles Housing Dept. Mello Determination Memorandum, 12/10/2008.
5. Mitigated Negative Declaration No. ENV-2007-625-MND, 12/10/2007.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine the appeal raises **a substantial issue** with respect to the grounds on which the appeal has been filed because the local government's action approving the coastal development permit may adversely affect the public parking supply that supports coastal access. **The motion to carry out the staff recommendation is on the bottom of Page Five.**

I. APPELLANTS' CONTENTIONS

City of Los Angeles Local Coastal Development Permit No. ZA-2007-0743, approved with conditions by the West Los Angeles Area Planning Commission on June 3, 2009, has been appealed by Keith Stephenson (Exhibit #6) and Constantine Tziantzis (Exhibit #7).

The grounds for the appeal filed by Keith Stephenson on October 7, 2009 are:

- The City's approval will eliminate two required on-site parking spaces, which would adversely impact public parking in the surrounding area.
- The City-required (Condition No. 9.e) construction of a new six-foot high wall around the perimeter of each new lot will eliminate four existing on-site parking spaces on the applicant's property, and eliminate two existing on-site parking spaces on a neighboring property (2806-2810 Grand Canal) as a portion of the neighboring carport extends onto the applicant's property. The loss of the six existing on-site parking spaces would adversely impact public parking in the surrounding area.
- The City-required (Condition No. 9.e) construction of a new six-foot high wall around the perimeter of each new lot is not in keeping with the character of the neighborhood and does not conform with Section 30251 of the Coastal Act.

Constantine Tziantzis filed an appeal on October 21, 2009 (Exhibit #7). Constantine Tziantzis, who is the applicant's agent, is appealing the denied portion of the City's decision which involves the requested variances to allow reduced on-site parking requirements for the two existing duplexes. The appeal asserts that the City's decision incorrectly converted the duplex on Lot A into a single-family residence even though the existing duplex is a legal non-conforming use. The applicant wishes to maintain the two existing duplexes on the project site, one on each of the two new lots created by the lot split.

II. LOCAL GOVERNMENT ACTION

On February 7, 2007, the applicant submitted to the City of Los Angeles Planning Department a Master Land Use Application requesting approval of a parcel map and a local coastal development permit for a proposed two-parcel subdivision.

On December 10, 2007, the City of Los Angeles Planning Department issued Mitigated Negative Declaration No. ENV-2007-625-MND for the proposed project.

On May 21, 2008, the City held a public hearing for the parcel map and the local coastal development permit applications. Four members of the public testified at the hearing, two in opposition to the proposed development.

On December 19, 2008, the Advisory Agency of the City Planning Department issued a letter of determination approving, with conditions, the proposed parcel map (AA-2007-0624-PMLA) subdividing the property into two parcels, each about 2,600 square feet in area (Exhibit #4). Condition 9.e of Parcel Map No. AA-2007-0624-PMLA requires the applicant to construct a minimum six-foot high wall adjacent to neighboring residences.

On February 27, 2009, the Office of Zoning Administration of the City Planning Department issued a letter of determination approving, with conditions, Local Coastal Development Permit No. ZA-2007-0743 for the proposed two-lot subdivision. The Office of Zoning Administration also granted two variances and a side yard adjustment as part of the decision. The variances were approved so the applicant could maintain the four existing residences (two on each lot) in lieu of one unit per lot, and one parking space per unit instead of two parking spaces per unit.

On March 16, 2009, Keith Stephenson filed an appeal at the City objecting to the Office of Zoning Administration granting of the local coastal development permit and the variances.

At its meeting on June 3, 2009, the West Los Angeles Area Planning Commission denied the appeal and sustained the Zoning Administration's approval of the local coastal development permit authorizing the two-parcel subdivision. The Planning Commission issued its decision on July 13, 2009, and its decision was not appealable to the City Council. On October 13, 2009, the Planning Commission issued a corrected notice of decision, which states that the zoning variances were disapproved (Exhibit #5).

On September 23, 2009, the Commission's South Coast District office in Long Beach received a valid Notice of Final Action from the City for its approval of Local Coastal Development Permit No. ZA-2007-0743, and established the twenty-working day appeal period.

The appeal by Keith Stephenson was filed on October 7, 2009 (Exhibit #6). Constantine Tziantzis filed an appeal on October 21, 2009, the last day of the appeal period (Exhibit #7). On October 8, 2009, Commission staff mailed a Notices of Appeals to the applicant and City Planning Department, and requested that the City provide the Commission staff with a copy of the local coastal development permit file. Commission staff received a copy of the City's file on October 19, 2009.

Because the proposed project is located in the City and Commission's "Dual Permit Jurisdiction" area (see Section IV on Page Four), the applicant is required to apply for and obtain a separate coastal development permit from the Commission for the proposed development. If possible, the public hearings and actions for both the de novo portion of this appeal (if the Commission finds that a substantial issue exists) and the "dual" coastal development permit application will be combined and scheduled for concurrent action at the same future Commission meeting in Southern California.

III. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits.

Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the

Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local coastal development permit application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.]

Any appeal of the local action is then analyzed to determine if a substantial issue exists as to the approved project's conformity with Chapter 3 of the Coastal Act (Sections 30200-30265.5). [Cal. Pub. Res. Code § 30625(b)(1).] Unless the Commission finds that the appeal raises no substantial issue, the Commission then holds a public hearing in which it reviews the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.]

At this point, the Commission may decide that the appellants' contentions raise no substantial issue as to conformity of the approved project with Chapter 3 of the Coastal Act, in which case the action of the local government stands. Or, the Commission may find that a substantial issue exists with respect to the conformity of the action of the local government with Chapter 3 of the Coastal Act if it finds that the appeal raises a significant question regarding consistency with the Chapter 3 policies of the Coastal Act. If the Commission finds that a substantial issue exists, then the hearing will be continued as a de novo permit request. Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

IV. DUAL PERMIT JURISDICTION

The proposed development involves the City's and Commission's "*Dual Permit Jurisdiction*" area. Section 30601 of the Coastal Act states:

Prior to certification of the Local Coastal Program and, where applicable, in addition to a permit from local government pursuant to subdivision (b) or (d) of Section 30600, a coastal development permit shall be obtained from the Commission for any of the following:

- (1) Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
- (2) Development not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream or within 300 feet of the top of the seaward face of any coastal bluff.
- (3) Any development which constitutes a major public works project or a major energy facility.

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that any development which receives a local coastal development permit also obtain a second or “dual” coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (i.e., projects in the *Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only coastal development permit required.

Because the project site is within the City and Commission’s “Dual Permit Jurisdiction” area, the applicant is required to obtain a separate coastal development permit from the Commission for the proposed development.

In regards to this appeal, if the Commission finds that a substantial issue exists in regards to the City’s approval of the local coastal development permit, the subsequent de novo action on the local coastal development permit will be combined with the required “dual” Coastal Commission coastal development permit application for concurrent action at the same future Commission meeting in Southern California. The matter will not be referred back to the local government. On the other hand, if the Commission finds that no substantial issue exists in regards to the City’s approval of the local coastal development permit, then the local coastal development permit approved by the City will be final, and the Commission will act on the required “dual” Coastal Commission coastal development permit as a separate agenda item.

V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **a substantial issue exists** with respect to whether the local government’s approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to PRC Section 30625(b)(1).

Staff recommends a **NO** vote on the following motion:

MOTION: *“I move that the Commission determine that Appeal No. A-5-VEN-09-194 raises **no** substantial issue with respect to conformity of the local approval with the policies of Chapter 3 of the Coastal Act.”*

Failure of the motion will result in a de novo hearing on the application and adoption of the following resolution and findings. A majority of the Commissioners present is required to pass the motion.

Resolution to Find Substantial Issue for Appeal A-5-VEN-09-194

The Commission hereby finds that Appeal No. **A-5-VEN-09-194** presents a substantial issue with respect to conformity of the local government approval with the Chapter 3 policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. Project Description

The proposed project involves the subdivision of one 5,314 square foot canal-fronting lot into two lots, each approximately 2,600 square feet in area (Exhibit #4). The project site is developed with two detached duplexes and two two-car garages. The project site sits on the east bank of Grand Canal in the historic Venice Canals neighborhood (Exhibit #2). The primary issue is the subdivision's effect on the neighborhood's public parking supply. The applicant is proposing to maintain five parking spaces on the two lots for the four existing residential units.

B. Substantial Issue Analysis

As stated in Section III of this report, the grounds for an appeal of a coastal development permit issued by the local government prior to certification of its Local Coastal Program (LCP) are the Chapter 3 policies of the Coastal Act. Any such local government coastal development permit may be appealed to the Commission. The Commission shall hear an appeal unless it determines that the local government action raises no substantial issue as to conformity with Chapter 3 policies of the Coastal Act. In this case, staff has recommended that a substantial issue does exist in the local government's approval of the project.

As stated above, the primary issue is the subdivision's effect on the neighborhood's public parking supply. The public parking on the surrounding streets supports coastal access. The applicant is proposing to maintain five parking spaces on the two lots for four existing residential units. The appeal filed by Keith Stephenson asserts that the un-divided property can provide space for two parking spaces per unit (eight), which is the current parking standard for the area. Four parking spaces are provided by the two garages, and the space between the two garages has been used to park up to four additional vehicles. The appeal states that the City's approval of the lot split with its requirement to build a wall on the property line would leave only enough space for one car, where four had previously fit. The lack of adequate parking on the project site would adversely impact the limited amount of public parking that is available on the surrounding streets. Beach goers and local residents already compete for the public parking on the surrounding streets.

Because of the importance of the public parking and coastal access in the Venice area, the Commission will carefully review the proposed project when it acts on the de novo portion of the appeal and the dual permit application. Only with careful review of the proposed project can the Commission ensure that public access to the coast is adequately protected from the impacts of the proposed development. If it finds that a substantial issue exists, the Commission will have the opportunity to review and act on the proposed project at the subsequent de novo hearing. Therefore, the Commission finds that a substantial issue exists with respect to the appeal and with the approval of Local Coastal Development Permit No. ZA-2007-0743.

Constantine Tziantzis, who is the applicant's agent, is appealing the denied portion of the City's decision which involves the requested variances to allow reduced on-site parking requirements for the two existing duplexes. The appeal asserts that the City's decision

incorrectly converted the duplex on Lot A into a single-family residence even though the existing duplex is a legal non-conforming use. The applicant wishes to maintain the two existing duplexes on the project site, one on each of the two new lots created by the lot split. The City's decision allows the proposed subdivision, but it is unclear whether the applicant is being required (against her will) to eliminate one of the four existing residential units on the site. The applicant's representative asserts that a valid Certificate of Occupancy exists for each duplex, and that the on-site parking supply for the four residential units should not have to be increased as a result of the lot split.

The Commission will not act on the variance requests, since only the City has jurisdiction over its code variances. Only the local coastal development permit is within the Commission's jurisdiction. The Commission will, however, review the density and parking requirements for the project site when it acts on the proposed lot split at the future hearing for the "dual" coastal development permit. The question of the project's density directly relates to the parking impacts of the project. The Chapter 3 policies of the Coastal Act will be the standard of review, while the certified Venice Land Use Plan (LUP) will provide guidance.

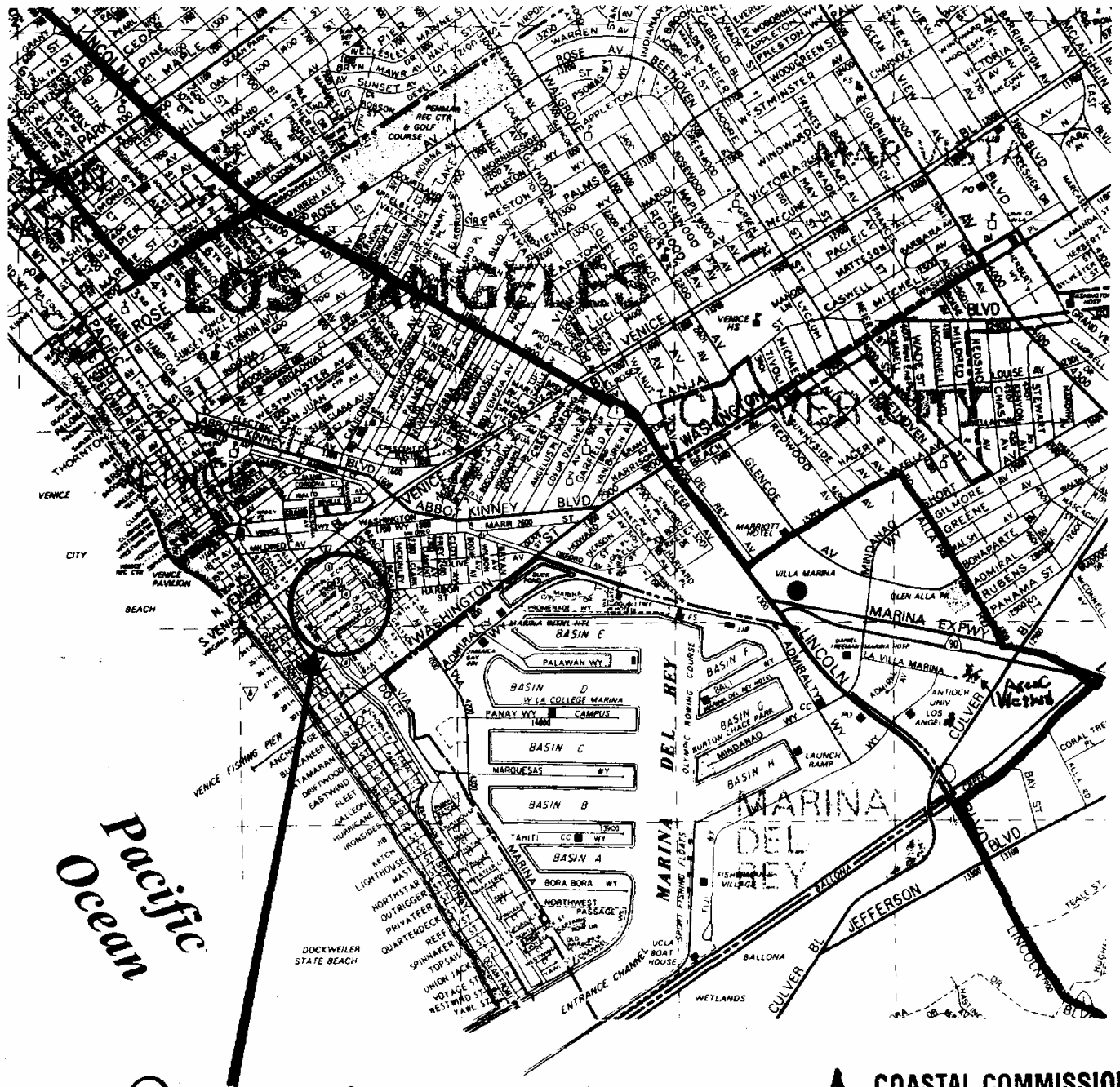
1212-1218 GRAND CANAL . VENICE . CA 90291



Currently there are 4 exterior parking spaces which will be lost if property is split and a fence is erected along the new property line.



VENICE, CA



Pacific
Ocean

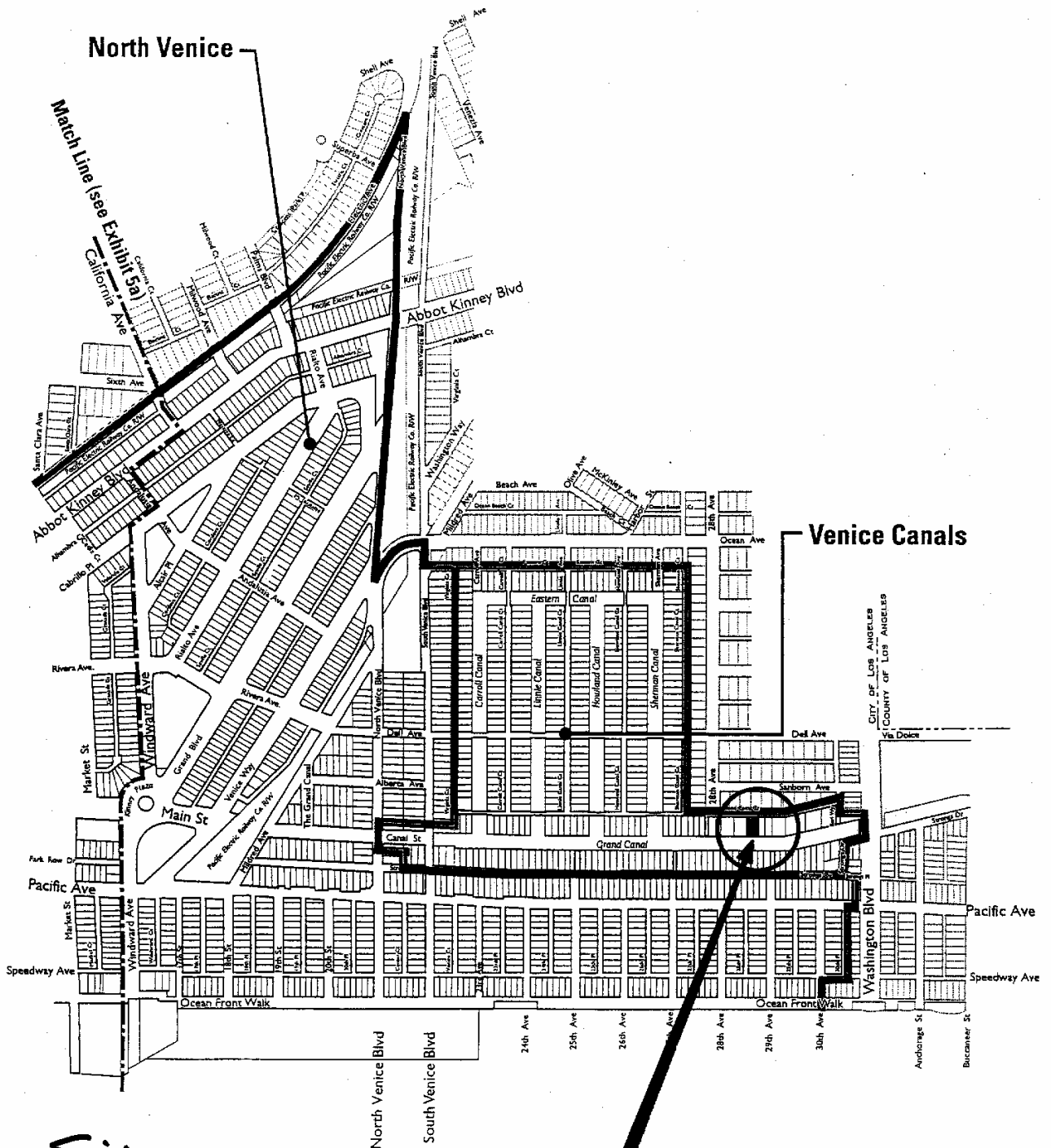
Site: Venice Canals



COASTAL COMMISSION
AS-VEN-09-194

EXHIBIT # 1

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Site:

2812-2818 Grand Canal

LUP
Exhibit 5b

Subarea: North Venice • Venice Canals

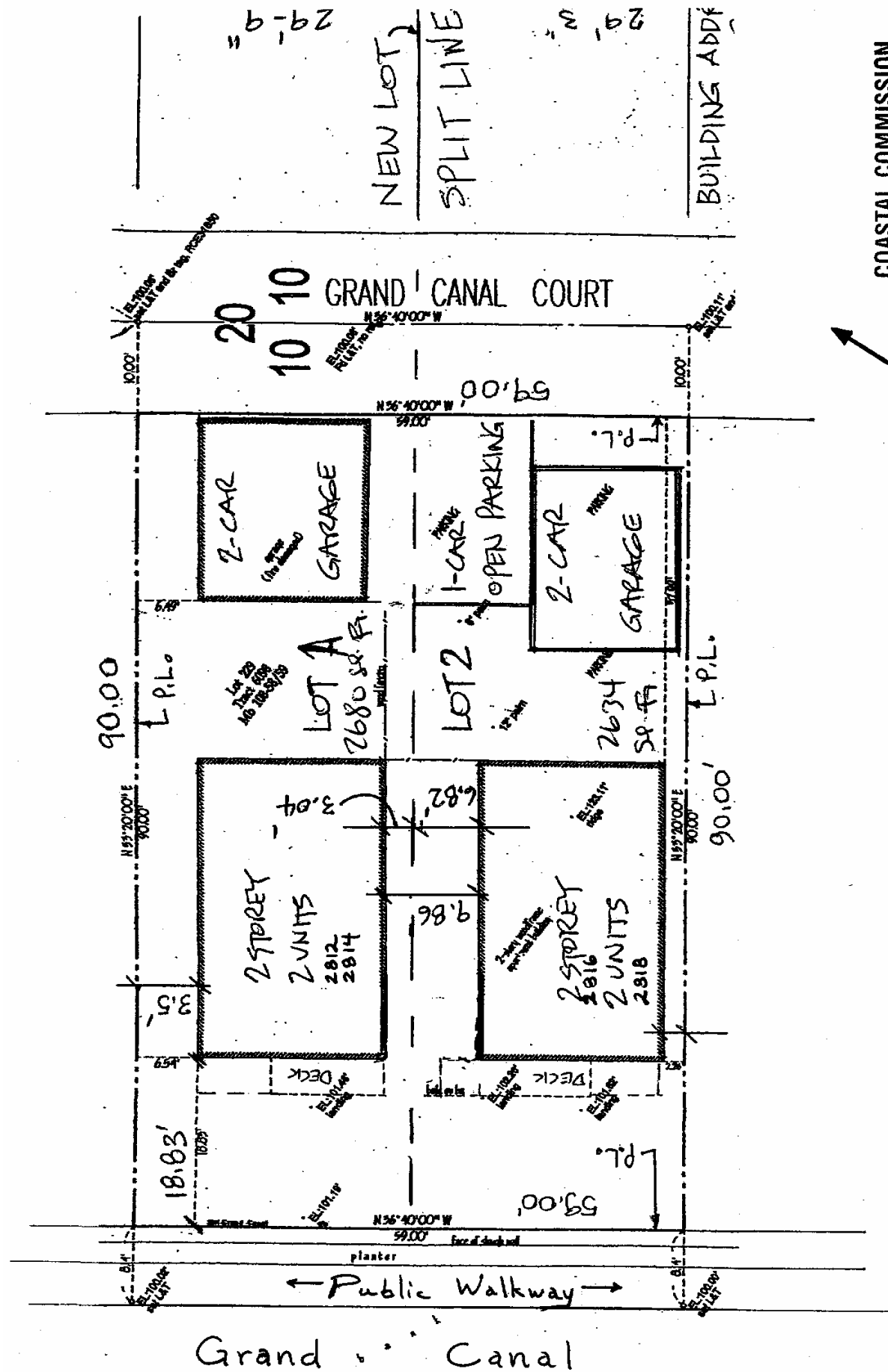


Not to Scale

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A5-VEN-09-194

EXHIBIT # 2
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2812-2818 Grand Canal



WEST LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300
www.lacity.org/PLN/index.htm

RECEIVED
South Coast Region

Determination Mailing Date: OCT 13 2009

OCT 19 2009

CORRECTED LETTER OF DETERMINATION (LOD)

CALIFORNIA
COASTAL COMMISSION

CASE NO: ZA-2007-0743-CDP-ZV-ZAA-SPP-MEL-1A
Related Case: AA-2007-0624-PMLA
CEQA: ENV-2007-0625-MND

Council District: 11
Location: 2812-2818 Grand Canal
Plan Area: Venice
Zone: RW1-1-O
District Map: 105A145
Legal Description: TR 6098 Lot 229

Applicant: Kathy Magee
Appellant: Keith Stephenson

At its meeting on June 3, 2009, the following action was taken by the West Los Angeles Area Planning Commission:

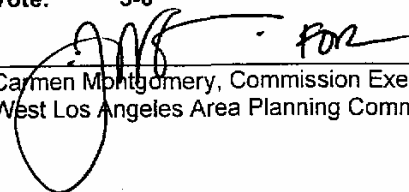
1. Denied the appeal.
2. **Approved** a **Coastal Development Permit** for the continued use and maintenance of four existing dwelling units in connection with Parcel Map AA-2007-0624-PMLA for the subdivision of two parcels with existing units to remain on each parcel in lieu of the one permitted by the RW1 Zone.
3. **Disapproved Zone Variances** to (a) permit two dwelling units in lieu of the one dwelling unit permitted by the RW1 Zone on Parcel A and on Parcel B of Parcel Map No. AA-2007-0624-PMLA; and (b) permit a reduction in the required parking to allow two enclosed parking spaces for the two dwelling units on Parcel A and two parking spaces for the two dwelling units on Parcel B in lieu of the two parking spaces per dwelling unit required.
4. **Approved a Zoning Administrator's Adjustment** to permit a reduced side yard of two-feet-three-inches in lieu of the required 3-foot side yard for the attached dwellings on Parcel B.
5. **Approved a Project Permit Compliance** with the Venice Coastal Specific Plan for the continued used and maintenance of the existing dwelling units in conjunction with Parcel Map No. AA-2007-0624-PMLA.
6. **Adopted** modified Conditions of Approval to include **Condition No. 11** to require one additional parking space and **Condition No. 12** to require that the buildings be inspected by the Building & Safety Department prior to obtaining a final Parcel Map (attached).
7. **Adopted** amended Findings (attached).
8. **Adopted** Mitigated Negative Declaration No. ENV-2007-0625-MND.

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

This action was taken by the following vote:

Moved: Donovan
Seconded: Foster
Ayes: Martinez, Chang, Linnick

Vote: 5-0


Carmen Montgomery, Commission Executive Assistant
West Los Angeles Area Planning Commission

COASTAL COMMISSION
AS-VEN-09-194

EXHIBIT # 5
PAGE 1 OF 1


APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

- 1) REQUEST FOR VARIANCE FOR REDUCED PARKING WILL IMPACT PARKING IN AREA IN NEGATIVE MANNER AS IT ELIMINATES 2 REQUIRED PARKING SPACES.
- 2) CONDITION #9.E IN DECISION LETTER DATED 12/19/08. REQUIRES A 6' HIGH WALL BE CONSTRUCTED AROUND EACH PARCEL. CONSTRUCTION OF THIS WALL WILL ELIMINATE 4 ADDITIONAL PARKING SPACES ON APPLICANT'S PROPERTY (SEE ATTACHED PHOTO) AND AN ADDITIONAL 2 PARKING SPACES ON NEIGHBORING PROPERTY (2800-2810 GRAND CANAL), AS PORTION OF NEIGHBORING CARPORT EXTENDS INTO APPLICANT'S PROPERTY.
- 3) CONSTRUCTION OF WALL WILL RESULT IN ELIMINATION OF A TOTAL OF SIX PARKING SPACES AND IS INJURIOUS TO NEIGHBORING PROPERTY OWNERS. IN ADDITION, AS NO OTHER PARCEL HAS A 6' HIGH WALL AROUND IT, THIS IS NOT IN KEEPING W/ THE CHARACTER OF NEIGHBORING ~~PROPERTY~~ PROPERTY, DOES NOT CONFORM TO SECTION 30251 OF THE CALIFORNIA COASTAL ACT OF 1976 OR TO THE VENICE SPECIFIC PLAN.
- 4) APPELLANT REQUESTS THAT APPLICANT BE REQUIRED TO PROVIDE ADEQUATE PARKING FOR THE PROJECT AND 2) HAVE CONDITION THAT A 6' WALL BE CONSTRUCTED AROUND PROPERTY REMOVED AS A CONDITION OF BEING ISSUED CERTIFICATE OF OCCUPANCY BASED ON AFOREMENTIONED REASONS.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or Authorized Agent

COASTAL COMMISSION
A5-VEN-09-194

EXHIBIT # 6
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

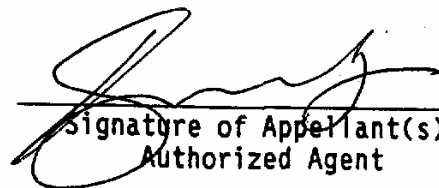
Appealing the denied portion of WLAPC
decision dated 7.13.2009, #3 and #4.
WLAPC initially approved the subdivision in
its entirety, under appeal from tenant,
the Commission reversed their decision in
allowing reduced parking for Lot A and reduced
the number of units from 2 to 1 for Lot A. They
did this without proof, the CofO clearly states

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

2 units
on
Lot A.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or
Authorized Agent

Date

10.21.09

COASTAL COMMISSION
AS-VEN-09-194

EXHIBIT # 7

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